IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1316 of 2005

Between:

M/s.Latha Enterprises, Bharat Petroleum Dealers,

Dubacherla, H/o Gantavarigudem
Nallajerla Mandal, West Godavari District,

rep by its Licensee

..... PETITIONER

AND

Bharat Petroleum Corporation Ltd.,

Visakha Territory (Retail), P.B# 213, Near Naval
Dockyard, Visakhapatnam-14,

Rep. by its Territory Manager (Retail)

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the letter bearing No. VT.L.LATA dated 20-01-2005 issued by the respondent herein to the petitioner as illegal, arbitrary and unjust and set- aside the same, and consequently direct the respondent to drop all further proceedings against the petitioner in this regard, and to pass such other order or orders

Counsel for the Petitioner :G.JHANSI

Counsel for the Respondent : MR.O.MANOHER REDDY

The Court at the stage of admission made the following :

ORDER:

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Challenging the order dated 20-01-2005 passed by the respondent, the present writ petition is filed.

The learned counsel for the petitioner contended that the explanation of the petitioner has not been considered by the respondent and by merely saying through it's impugned order dated 20-01-2005 that the explanation is not satisfactory, is not proper consideration.

The learned standing counsel on instructions contended that the sample of the oil taken from the outlet was sent for testing and the respondent suspended the supplies of all petroleum products to the petitioner's outlet, after issuing a show cause notice stating that he was selling the adulterated oil to the customers.

As seen from the impugned notice, it is clear that lubricant samples MAK 2 T were taken on 04-10-2004 and sent to the analyst for testing, and it is found that the oil failed to meet its specifications of MAK 2-T. Therefore, the respondents gave a show cause notice dated 17-11-2004 to the petitioner calling for the explanation stating that the sample of 2-T oil has been taken from the outlet at the sales point not meet its specifications. The writ petitioner gave a reply on 17-11-2004 stating that the sample was collected from his generator room, but not from its outlet. Not being satisfied with the said explanation, the same was rejected and the impugned order has been passed. There is no specific denial in the explanation that the sample was not collected from the sales point. On the other hand, it is specifically mentioned in the show cause notice that samples were taken from the retail outlet. On this allegation, the explanation given by writ petitioner was rejected. In my considered opinion, respondents have considered the explanation of writ petitioner in a right perspective.

Therefore, the impugned order does not suffer from any legal infirmity, so as to call for the explanation from the respondent. The writ petition is devoid of merits and accordingly it is dismissed.

K.C.BHANU, J.

Dt: 02-02-2005.

Note: C.C. by today.

(B/o)

Rns.

To

1. The Territory Manager (Retail)

Bharat Petroleum Corporation Ltd.,

Visakha Territory (Retail), P.B# 213, Near Naval Dockyard, Visakhapatnam-14.

2. Two CD copies.